

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 4/16/2024
--

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----	X	
UNITED STATES OF AMERICA	:	
	:	
-against-	:	19-CR-166 (VEC)
	:	
JOSE CABAN,	:	<u>ORDER</u>
	:	
Defendant.	:	
-----	X	

VALERIE CAPRONI, United States District Judge:

WHEREAS on April 29, 2022, Jose Caban (“Defendant”) was sentenced principally to a term of imprisonment of twenty-one years, *see* Judgment, Dkt. 423;

WHEREAS on February 27, 2024, Defendant moved for a sentence reduction pursuant to Amendment 821 to the U.S. Sentencing Guidelines (“Amendment 821”), *see* Mot., Dkt. 464, which went into effect on November 1, 2023, and which applies retroactively; *see* U.S.S.G. §§ 1B1.10, 4A1.1(e), 4C1.1;

WHEREAS on February 27, 2024, Defendant asked the Court to appoint counsel to assist him with this motion, *see* Mot., Dkt. 464 at 1;

WHEREAS on March 26, 2024, the United States Probation Department reported that Defendant is not eligible for a sentence reduction pursuant to Amendment 821, *see* Probation Report, Dkt. 471; and

WHEREAS the Court has considered the record in this case;

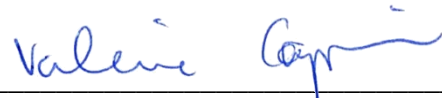
IT IS HEREBY ORDERED that Defendant is ineligible for a sentence reduction pursuant to Amendment 821. The status points reduction does not apply to Defendant because he did not receive an enhancement for committing the instant offense while under a criminal justice sentence. The zero-point offender reduction does not apply to Defendant because, although he

has zero criminal history points, Defendant committed a violent crime that resulted in serious bodily injury. *See* U.S.S.G. § 4C1.1 (reduction applies only to defendants who did not use violence in connection with the offense and to offenses that did not result in death or serious bodily injury). Therefore, Defendant's motion for a reduction in sentence and for appointment of counsel is DENIED.

IT IS FURTHER ORDERED that the Clerk of Court is respectfully directed to terminate the open motion at Dkt. 464, to mail a copy of this Order to Mr. Caban, and to note the mailing on the docket.

SO ORDERED.

Dated: April 16, 2024
New York, NY



VALERIE CAPRONI
United States District Judge